

# Court of Appeals, State of Michigan

## ORDER

People of MI v Demetrous Tushai Magwood

Docket No. 351997

LC No. 11-001441-01-FC

Karen M. Fort Hood  
Presiding Judge

Christopher M. Murray

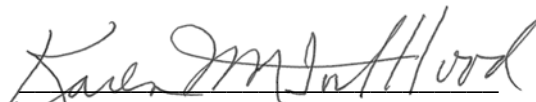
Cynthia Diane Stephens  
Judges

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The Court orders that the motion to waive fees is GRANTED for this case only.

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application for leave to appeal, the Wayne Circuit Court's July 30, 2019 order denying defendant's motion for relief from judgment is VACATED and this matter is REMANDED for further proceedings consistent with this order. The circuit court erred by holding that res judicata barred defendant from raising any claims of error that he "could have raised but did not" in his first-tier appeal. See MCR 6.508(D)(3); *People v Herrera*, 204 Mich App 333, 340; 514 NW2d 543 (1994) (holding that the preclusion doctrines of res judicata and collateral estoppel are inapplicable in the instant context because a motion for relief from judgment "does not involve a separate action"). On remand, the circuit court shall consider and decide the merits of those issues that it previously held to be precluded under res judicata.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

  
Presiding Judge



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

April 22, 2020

Date

  
Chief Clerk